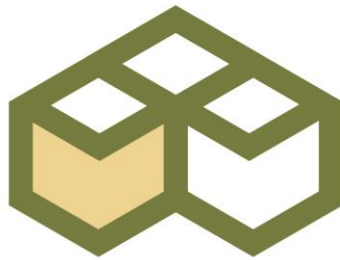


# **BEGINNING FARMER LOAN PROGRAM**

(Individual Agricultural Development Bond Program)

## **PROGRAM SUMMARY**



**IOWA AGRICULTURAL**  
DEVELOPMENT DIVISION

**IOWA FINANCE AUTHORITY**  
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FOR  
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## GENERAL

### **Establishment of Iowa Agricultural Development Division**

The Iowa General Assembly created the Iowa Agricultural Development Division in 1980. The Authority's statute is Chapter 175, *Code of Iowa*. The purpose of this law is to assist eligible Iowans, who engage in farming or wish to engage in farming, to purchase agricultural land and depreciable agricultural property, or to make agricultural improvements.

### **Creation of the Iowa Agricultural Development Bond Program**

The law was amended in 1981 to include the Individual Agricultural Development Bond Program (the Program). In 1987, the Program was expanded to permit the sale of bonds to individuals for direct loans and for contract sales. The Program was further expanded in August 1996 when a federal law became effective that allows beginning farmer loans to be used for transactions between parents, grandparents and siblings. Such transactions can be financed only through third-party lenders; Internal Revenue Service (IRS) rules prohibit contract sales between close relatives. The new law also increased the number of acres applicants could own and still be eligible for a Beginning Farmer Loan.

In 2008, the program was again expanded to increase the maximum bond amount from \$250,000 to \$450,000. Additionally, the maximum bond amount will be adjusted annually based on inflation. Also, the \$125,000 maximum value of previously owned real estate restriction was eliminated. However, no more than \$250,000 of the proceeds of a bond may be used to finance agricultural improvements. For 2014 the maximum bond amount is \$500,000.

### **Iowa Agricultural Development Division Board of Directors**

The powers of the Division are vested in and exercised by a board of 6 members. Five members are appointed by the Governor subject to Senate confirmation. The Executive Director of the Iowa Finance Authority is an ex-officio non-voting member.

## PROGRAM SUMMARY IN BRIEF

- The Individual Agricultural Development Bond Program (IADBP), more commonly known as Iowa's Beginning Farmer Loan Program ("Program"), is a tax-exempt bond program designed to assist beginning farmers in the state of Iowa to acquire agricultural property at lower interest rates.
- The program enables lenders, individuals, partnerships, corporations, and other entities (herein referred to as the "Bond Purchaser") to receive tax-exempt interest with respect to a loan or contract sale made to beginning farmers. Interest received by lending institutions is eligible for a federal tax exemption while interest received on contract sales or direct loans by individuals is also exempt from state income taxes.
- The Bond Purchaser, after arranging the loan or sales contract, will obtain from the Iowa Finance Authority (the "Authority") a tax-exempt Private Activity Bond (PAB) in the amount of the loan or the unpaid balance. The loan and its collateral will be assigned to the Bond Purchaser as security for the bond. In the case of a contract sale, the contract will be entered into by the Authority, and the Bond Purchaser will receive the bond to evidence the Authority's obligations under the contract. The Authority's right, title and interest in the contract will then be assigned to the Beginning Farmer who assumes payment obligations of the Authority under the contract.

## BASIC QUALIFICATIONS

- Net worth below \$678,731 (page 3).
- May not have previously owned any substantial amount of farmland (page 12).
- Program may be used to purchase agricultural land and depreciable agricultural property, or to make agricultural improvements (page 2).
- Property may be purchased from relatives but only through third-party lenders (page 6).
- The loan maximums under existing Iowa and federal laws are:
  - \$500,000 for agricultural land and improvements
  - \$250,000 for depreciable agricultural property and agricultural improvements
  - \$125,000 for new depreciable agricultural property
  - \$ 62,500 for used depreciable agricultural property (page 2).
- Labor must be performed by and management provided by the Beginning Farmer, his or her co-applicant, and/or minor children and may not cash rent or custom hire a majority of the field work or livestock management to be completed.
- Beginning Farmer must be an individual. Loans to corporations, partnerships, LLC's, etc. are ineligible under the Federal Tax Code.

There is no minimum loan amount for the program, however, the minimum loan closing fee charged is \$300. The Bond Purchaser will make a credit evaluation of the Beginning Farmer, may require any collateral deemed necessary and, with the Beginning Farmer, must arrange the terms of the loan or contract. Neither the loan, the contract nor the bond will be the Authority's obligation, and the bond will be secured solely by the loan or contract and collateral provided by the Beginning Farmer. The Bond Purchaser will be responsible for the creation and perfection of any security interest deemed necessary for the loan or contract.

A loan made under the Program is funded solely from the bond issued to the Bond Purchaser. The Authority does not provide independent funds to finance the bank loan/contract sale. Therefore, a Beginning Farmer must submit an application with a Bond Purchaser (bank, contract seller or individual investor) who is able to purchase the Authority's bond to fund the Beginning Farmer's loan. The Authority shall not be liable or responsible for the failure of a Bond Purchaser to purchase a bond or otherwise perform the functions of a lender. Nor shall the Authority be liable or responsible for the failure of a Beginning Farmer to locate an alternate Bond Purchaser in the event of a failure of performance by the Beginning Farmer's initial Bond Purchaser.

## SECTION I - PROGRAM POWERS AND ELIGIBLE ACTIVITIES

Eligible activities consist of financing purchases of the following:

1. **Agricultural Land** -- The Authority can finance the purchase of land suitable for farming (page 11).
2. **Agricultural Improvements** -- The Authority can finance the construction or purchase of improvements (which are suitable for use in farming) located on agricultural land. Examples: Confinement systems for swine, cattle, or poultry; barns and other out-buildings; grain storage facilities; silos; improvements to land such as tiling and soil conservation practices including, but not limited to, terraces, farm ponds, erosion control structures, and waterways. Agricultural Improvements may be new or used and may include additions to or the renovation of existing buildings or other structures. There are restrictions regarding the financing of a personal residence on a farm (page 11).
3. **Depreciable Agricultural Property** -- The Authority can finance the purchase of personal property suitable for use in farming for which an income tax deduction for depreciation is allowed in computing federal income taxes. Examples: Livestock used for breeding or dairy purposes, farm machinery, trucks, etc. However, feeder cattle, feeder pigs, or feeder lambs do not qualify as depreciable property. Bond proceeds may be used to finance new or used depreciable agricultural property. "Used" livestock are female animals that have produced offspring or are male animals that have been used for breeding purposes. Open or bred heifers, gilts, or lambs would not be considered as "used" property under this definition (this class of animals would be considered "new" property). Male animals that have not been used for breeding purposes would be considered as "new" property.

## SECTION II - PROGRAM MAXIMUMS AND MINIMUMS

Federal and Iowa law collectively set various maximum amounts that may be financed under the Program.

1. No more than an aggregate amount of \$500,000 for agricultural land, agricultural improvements and depreciable agricultural property. This maximum will adjust annually for inflation. It is possible to use the program more than once, if the Beginning Farmer still meets eligibility requirements and the grand total of bonds per individual does not exceed the \$500,000 lifetime maximum.
2. Of the possible \$500,000, no more than \$250,000 can be used to finance farm improvements, no more than \$125,000 can be used to acquire new depreciable agricultural property of which no more than \$62,500 can be for "used" property.
3. There is no minimum loan amount for the Program.

## SECTION III - INVESTMENT RISK; LIMITED OBLIGATION BONDS

The Bond Purchaser must make a credit evaluation of the loan or sales contract, the Beginning Farmer's net worth and ability to repay principal and interest, and the sufficiency of the security for the loan or sales contract. **The Authority will not make an independent evaluation of the Beginning Farmer's ability to repay the loan, pay the contract or determine the Beginning Farmer's net worth.** The Authority and its counsel will not review and will make no warranties or representations with respect to the legal sufficiency or validity of the loan or the sales contract. In setting the terms and drafting the loan or sales contract, the Beginning Farmer and Bond Purchaser are strongly encouraged to consult their legal counsel and tax consultants. The Bond Purchaser will be required to execute a statement at loan closing with respect to his or her understanding of the Authority's limited obligation on the bond and the credit risks inherent in purchasing such a bond.

The principal and interest on the bond are limited obligations, payable solely out of the revenue derived from the debt obligation or sales contract, collateral or other security furnished by or on behalf of the Beginning Farmer. A guarantor, letter of credit or alternative credit enhancement on the debt is permissible. A guarantor may be a related person. The bond, which is issued by the Authority to the Bond Purchaser, is a non-recourse obligation. The principal and interest on the bond do not constitute an indebtedness of the Authority or the State of Iowa or a charge against their general credit or general funds. It should also be noted that any recording or filing fees or transfer taxes associated with the loan or sales contract will be paid by the Beginning Farmer or Bond Purchaser and not by the Authority. Additionally, the Authority will have no responsibility with respect to the preparation, execution, or filing of any Declaration of Value or Groundwater Hazard Statement.

## SECTION IV - ELIGIBILITY

The basic eligibility requirements for the Program are as follows:

1. **Age Limits** -- A Beginning Farmer must be at least age 18, unless he or she is married. There is no upper age limit.
2. **First-Time Farmer** -- All Beginning Farmers must be First-Time Farmers regardless of the purpose of the loan. A First-Time Farmer is an individual who has never had any direct or indirect ownership interest in Substantial Farmland (see page 12) in the operation of which he/she has materially participated. An ownership interest or material participation by an individual's co-applicant or minor child will be attributed to the individual as well.
3. **Net Worth** -- The Beginning Farmer must have a net worth of under \$678,731. If the Beginning Farmer and/or co-applicant is involved in a business, partnership, corporation, etc., either related or unrelated to his/her farming operation, a financial statement from this entity must also be submitted with the application.

4. **Residence** -- The Beginning Farmer must be an Iowa resident on or before the bond is issued.
5. **Training and Experience** -- The Beginning Farmer must have documented, to the satisfaction of the Bond Purchaser and the Authority, sufficient education, training and experience in the type of farming operation for which the bond is requested. The Beginning Farmer must perform the labor and provide the management to run the farming operation.
6. **Use of Project** -- The agricultural land, agricultural improvements, and depreciable agricultural property shall only be used for farming by the individual, the individual's co-applicant, the individual's minor children, or any of them.

Labor must be performed by and management provided by the Beginning Farmer, his or her co-applicant, and/or minor children and may not cash rent or custom hire a majority of the field work or livestock management to be completed.

## SECTION V - INELIGIBLE PROGRAM ACTIVITIES

The Internal Revenue Service has promulgated many rules and regulations governing the use and sale of tax-exempt bonds, some of which apply to the Authority's Program. The rules that will affect the Program most are those stating that tax-exempt bond proceeds cannot be used to:

1. **Refinance Existing Debt** -- that has been incurred by the Beginning Farmer prior to 60 days within the Authority's board approval of a Program application.
2. **Finance Working Capital** -- to purchase feed, seed, fertilizer, fuel, etc. (Feeder cattle, feeder pigs or feeder lambs would also fall into this category).
3. **Finance a Contract Sale between Beginning Farmer and Grandparent, Parent, or Sibling** -- Federal tax law does not allow tax-exempt bonds to be issued to close relatives. The purchase of land, improvements or equipment from close relatives must be financed through a third-party lender in order to be eligible.
4. **Rural Residence** -- the purchase of only a house is not permitted. However, if the house is a minor part of a farm or acreage purchase it can be included as a part of the loan. No more than 5 percent of the bond proceeds can be used toward the purchase of the house. (See note on page 11.)
5. **Rental of Project** -- labor must be performed by and management provided by the Beginning Farmer, his or her co-applicant, and/or minor children and may not cash rent or custom hire a majority of the field work or livestock management to be completed.
6. **Contract Feeding** -- contract feeding of livestock is not allowed unless it is done on a "per animal per day" basis. Contract feeding on a "per space per day" basis is not allowed.
7. **CRP Land** -- the purchase of farmland that is entirely enrolled in CRP is not permitted. Depending on whether a portion of bond proceeds are financing a house (not to exceed 5 percent) 20-25 percent of the bond proceeds may be used to purchase CRP acres.
8. **Ineligible Animals** -- feeder cattle, feeder pigs, feeder lambs, chickens, or turkeys as they do not qualify as depreciable property and, as a result, are not eligible under the program. Other animals that would be ineligible under the program would include horses and those classified as "exotic" such as llamas, fallow deer, ostriches and emus.

The Beginning Farmer, or any related person, shall not make any expenditure with respect to the acquisition or construction of any part of the Project prior to 60 days of the date the Authority board approves the Application. To do so runs a risk that the IRS would deem the bond transaction a refinancing; tax-exempt bond proceeds may not be used for the purpose of refinancing.

Notwithstanding the foregoing, approval of an Application *does not* constitute final bond approval. The Authority reserves the right to cease bond processing at any time or to reduce the permitted bond amount if, prior to bond closing, it is discovered that the Beginning Farmer is refinancing an existing loan, or if due to the implementation of or changes in federal or State law or regulations, it is determined that the Project is ineligible.

## SECTION VI - APPLICATION PROCEDURES; GENERAL MATTERS

A Beginning Farmer and Bond Purchaser must prepare and submit a joint application to the Authority. The following should be noted:

1. **Application Forms** -- Application forms are available from the Authority or on the Authority's website address of [IowaFinanceAuthority.gov/IADD](http://IowaFinanceAuthority.gov/IADD). The Application should be completed by the Beginning Farmer and the Bond Purchaser and submitted directly to the Authority. Applicants are encouraged to contact the Authority staff if they have questions in completing the Application.
2. **Current Financial Statement** -- A copy of the Beginning Farmer's current financial statement, taken within 30 days prior to submission of the application, witnessed by a bank officer and signed by all applicants, must be provided with the Application. If the Beginning Farmer and/or co-applicant is involved in a business, partnership, corporation, etc., either related or unrelated to his/her farming operation, a financial statement from this entity must also be submitted with the Application.
3. **Background Letter** -- A letter must be submitted with the Application explaining the Beginning Farmer's background with respect to his or her education and experience in the type of farming operation for which a loan is sought. The letter should outline the Beginning Farmer's access to machinery if the loan is for land; or his or her access to land if the loan is for agricultural improvements or depreciable agricultural property. The letter should also state where the Beginning Farmer will obtain operating capital and interim financing if necessary, and outline the functions the Beginning Farmer will perform with respect to the Project.
4. **Application Period** -- Completed Applications received by the 1st of the month will be reviewed and considered by the Division's Board at that month's board meeting, then a recommendation will be made to the Authority Board for the following month. Applications received after the 1st of the month will be reviewed at the next month's board meeting.
5. **Interim Financing (does not apply to contract sales)** -- As noted, a Beginning Farmer must not make any expenditure with respect to acquisition or construction of any part of the Project prior to 60 days of the date the Authority board approves the Application; if this were to occur, the bond transaction could be deemed a refinancing. However, once the Application has been approved by the Authority board, the Project may move forward with either construction or possession and, if necessary, the Bond Purchaser or another lender may interim finance the loan prior to bond issuance. The interim financing will be paid with the proceeds of the bond when issued.
6. **Fees** -- The Beginning Farmer or Bond Purchaser must submit to the Authority a **non-refundable \$50** application fee (submitted with the Application). A loan fee **equal to 1.50 percent of the first \$250,000 and 0.75 percent of the amount over \$250,000 of the bond, but not less than \$300**, must be submitted by the Beginning Farmer or Bond Purchaser at loan closing.

The Authority's bond counsel will review each bond for legality and tax exemption. The Authority will pay its bond counsel from the fees collected from the Beginning Farmer or Bond Purchaser.
7. **Use of Financial and Security Documents** -- The Bond Purchaser should use forms of financial statements and security documents which he/she believes are necessary and appropriate under the particular circumstances for the loan or contract sale. These items should be referenced in the bond documents and their provisions incorporated therein. Any additional requirements not specifically provided for in the bond documents, such as insurance coverage and amounts, should also be added.
8. **Bond Purchasers** -- It is the Bond Purchaser's responsibility to ensure that any security agreements, mortgages, guarantees or other security documents, which the Bond Purchaser requires in a transaction, have been completed and signed, and that any financing statements have been filed, mortgages recorded or any other necessary steps taken to protect the Bond Purchaser's interests. The Authority makes no warranties or representations with respect to the effectiveness, validity or priority of any liens or security interests which a Bond Purchaser has, or believes he/she may have, with respect to a particular project. Further, the Authority will have no responsibility with respect to the preparation, execution, or filing of any Declaration of Value statements or Groundwater Hazard statements.



9. **Public Hearing and Governor's Approval of Bond Issuance** -- Federal law requires that a public hearing must be held before any Authority bond is issued. A legal notice will be published by the Authority in a newspaper of general circulation throughout the state of Iowa at least 14 days prior to the hearing. In addition, any individual may file a written request with the Authority at or prior to the scheduled hearing requesting that a local hearing be held in the area where the Project is located.

Generally, these public hearings will be conducted by the Authority board in conjunction with its monthly meeting. However, on some occasions the hearings may be conducted by individual board members or members of the Authority's staff. A hearing must be held before the bond documents are approved.

The Governor of Iowa, after receiving a report on the public hearing results, may approve or disapprove the Bond. An allocation of the State's Volume Cap must then be received for the Bond. Once the final approval from the Governor and the bonding allocation are received, the loan may proceed to closing.

10. **State Volume Cap Limitations** -- Federal tax law establishes a limit on the total principal amount of tax-exempt Private Activity Bonds, which may be issued within any state during a calendar year (the "Volume Cap"). All Authority bonds are subject to the limitation. The Iowa General Assembly has established a formula to allocate the Volume Cap among bond issuers. The procedure for the allocation is set forth in Section 7C.4A, *Code of Iowa*. The Authority has been given a percentage of the Volume Cap for use in issuing bonds for Beginning Farmers. If an allocation from the Volume Cap is not available for a particular bond, the Bond Purchaser and the Beginning Farmer will be so advised.
11. **Modified Accelerated Cost Recovery System Limitations** -- Bond Purchasers and Beginning Farmers should be aware that federal law limits the application of the Modified Accelerated Cost Recovery System (MACRS) with respect to facilities financed with the Authority's bonds. If an item is financed with the proceeds of a bond, the Beginning Farmer must use an alternate MACRS method where deductions are computed by applying the straight line method, the applicable averaging convention, and the applicable longer recovery period for such item (12 years for personal property with no class life, 40 years for real property, and the class life for all other property). Beginning Farmers should contact their tax consultant regarding the specific effect this change in the MACRS will have on their operations or Project.
12. **Maximum Loan Maturity** -- Federal law provides that the weighted average maturity of an Authority bond can be no more than 120 percent of the average reasonably expected economic life of the project being financed with proceeds of the bond (there is no maximum for land).
13. **Purchases from Related Person** -- Federal tax law does not allow tax-exempt bonds to be issued to close relatives, including parents, grandparents and siblings ("Related Persons"). Therefore, the purchase of land, improvements or equipment from Related Persons may not be financed by the use of a sales contract; it must be financed by a loan from a third-party lender in order to be eligible. In addition, the Project must be sold to the Beginning Farmer for its fair market value. The lender must certify that the Project is being sold for its fair market value and supply an appraisal showing the fair market value of the Project. The Related Person must certify to the Authority that after closing, the Related Person will not have a financial interest in the project.

## SECTION VII - DETAILS FOR DIRECT LOANS

**NOTE:** This section applies to transactions involving a direct loan made by the Bond Purchaser to the Beginning Farmer. If the Beginning Farmer is purchasing the project on a sales contract from the Bond Purchaser, Section VII should be disregarded and Section VIII should be followed. **IN ALL CASES, ALSO FOLLOW SECTION VI.**

1. **Loans to Beginning Farmers and Security Arrangements** -- The Program involves the Bond Purchaser, Beginning Farmer, and the Authority. The financing is accomplished as follows: in simultaneous transactions the Bond Purchaser purchases the bond from the Authority; the Authority makes the loan to the Beginning Farmer from the proceeds of the bond sale; and then assigns the promissory note it receives from the Beginning Farmer to the Bond Purchaser as security for the bond.

2. **Terms of Loan** -- The Beginning Farmer and Bond Purchaser must agree on terms of the loan such as interest rate, purchase price, length of loan, prepayment options, service fees, down payment, insurance coverage, security, payment of taxes, repayment schedule, and defaults and remedies on default.
3. **Repayment of Loans** -- Under the Authority's bond documents, the Beginning Farmer's payment obligations are subject to mandatory prepayment in the event the interest income on the bond becomes includable in gross income for purposes of federal income taxation, in the event that the loan agreement entered into by the Beginning Farmer becomes void or enforceable, and to the extent any bond proceeds remain following completion of the acquisition or construction of the Project. In addition, the documents provide for optional prepayment from insurance or condemnation proceeds (at the discretion of the Bond Purchaser) in the event of damage, destruction or condemnation of any part of the project.

The documents also provide for prepayment at the option of the Beginning Farmer, the terms and conditions of which are to be agreed upon between the Beginning Farmer and the Bond Purchaser. It should be noted that the bond documents may be amended to provide for a prepayment at the option of the Bond Purchaser. The terms of this type of prepayment (called a call option) will need to be agreed upon by the Beginning Farmer and the Bond Purchaser. This prepayment (call) option should be used where a Bond Purchaser may be willing to extend the initial term of a loan, but wants the ability to review the loan at various points in time and to end the loan if the Beginning Farmer's progress is unsatisfactory. **This alternative is preferred over a balloon which would automatically terminate the bond and end the tax exemption.** Examples of call options are as follows:

- (1) Call option every five years beginning March 1, 2010 upon 90 days' prior written notice to the Beginning Farmer.
- (2) Call option on the dates 1-1-2010, 1-1-2015, 1-1-2020, and 1-1-2025 upon 90 days' prior written notice to the Beginning Farmer.

4. **Assignment or Sale of Bonds** -- The Authority does not place any restrictions on a Bond Purchaser's ability to participate out, assign or sell a bond issued under the Program. Generally, the Bond Purchaser, participating in the Program, purchases the bonds for his/her own investment and does not anticipate assigning the bond to another investor. It should be noted there are laws that prevent certain sales and participations, or at least seriously restrict them. For example, the Iowa Securities Law may impose certain restrictions or requirements if the bonds are sold to investors other than financial institutions. In addition, there are adverse federal tax consequences if the bond is assigned, participated out or sold to a "Related Person" (page 14) of the Beginning Farmer. Therefore, a Bond Purchaser should consult with legal counsel to determine if any of these laws or regulations will be violated before selling, assigning, or participating out a bond.

The Authority's rules provide that a Bond Purchaser may assign a loan in whole or in part to any person, as defined in *Code of Iowa*, Section 4.1(13). Servicing of the loan in a bank transaction may also be assigned but the Authority must be notified in writing prior to assignment or servicing of the loan.

5. **Timing Requirements for Spending Bond Proceeds** -- Federal tax law restrictions generally do not permit the investment of bond proceeds in securities which bear a higher interest rate than the bond.

Under the current rules the period of time during which bond proceeds may be invested in an unrestricted yield is eighteen months. The "Gross Proceeds" of a tax-exempt bond must be spent on the project being financed in accordance with the following schedule: (i) 15 percent within 6 months, (ii) 60 percent within 12 months, and (iii) 100 percent within 18 months. If the Bond proceeds are not spent in accordance with such schedule, the parties to the bond issue will be subject to some very onerous federal reporting requirements and will be required to pay any profits earned on bond proceeds to the federal government.

It should be noted the "Gross Proceeds" of a bond include more than the original principal proceeds. Also included are any amounts earned on the investment of bond proceeds; funds, securities or other obligations (such as a certificate of deposit) which are pledged as security for the payment of the bond.

To avoid subjecting any of the Authority's bonds to these reporting and payment requirements, it is the policy of the Authority not to issue a bond for a Project until the Authority can be assured that all bond proceeds will be expended on the Project in accordance with the foregoing schedule. In the closing documents the Beginning Farmer and Bond Purchaser are required to certify that the use of the proceeds will comply with this policy.

## SECTION VIII - DETAILS FOR SALES CONTRACTS

**NOTE: This section applies specifically to transactions involving a sales contract from the contract seller to the Beginning Farmer. This section should be disregarded if the Bond Purchaser is making a direct loan to the Beginning Farmer and Section VII should be followed. In all cases, also follow Section VI.**

1. **Sales Contracts and Security Arrangements** -- The Program involves the Bond Purchaser, Beginning Farmer, and the Authority. After an Application has been submitted and approved, the Bond Purchaser and the Authority will enter into a sales contract and the Bond Purchaser will receive a bond to evidence the Authority's obligations under the contract. The Beginning Farmer assumes the payments and other obligations of the Authority under the contract.
2. **Terms of the Sales Contract** -- It must be clearly stated in the sales contract as to the portion of the payments constituting principal and the portion constituting interest. In addition to other terms the Beginning Farmer and Bond Purchaser may include in the sales contract, **the following terms must be included:**
  - a. This contract will be assigned by the Buyer (Iowa Agricultural Development Authority) to \_\_\_\_\_ (Beginning Farmer) and may not be reassigned by Beginning Farmer(s) without the written consent of Seller(s) and the Iowa Agricultural Development Authority which consent, if given, shall not operate as a waiver of the requirement of written consent on any subsequent assignment. Any attempt by Beginning Farmer(s) to reassign this contract without written consent shall entitle Seller(s) to declare all amounts due hereunder immediately due and payable.
  - b. To evidence its payment obligations under this contract, the Iowa Agricultural Development Authority will issue its tax-exempt bond (the "Bond") in an amount equal to the unpaid balance of the purchase price contained herein and bearing interest at the rate of \_\_\_\_\_ per annum (the "Tax-Exempt Rate") with payment terms identical to those contained herein. Beginning Farmer(s) have expressly warranted to Seller(s) that the interest payments received pursuant to the terms contained herein will come to the Seller(s) in the form that will make it not includable in gross income for federal income tax purposes. Seller(s) are relying on the representations made by the Beginning Farmer(s) in this regard and in the event the interest payments are determined to be includable in gross income for federal income tax purposes, then all interest payments will be computed on the basis of interest at the rate of \_\_\_\_\_ per annum (the "Taxable Rate") and Beginning Farmer(s) shall be responsible to make payment to the Seller(s) for the difference between interest paid at the Tax-Exempt Rate and the amount calculated on the basis of interest at the Taxable Rate. This provision shall not apply in the event the Bond is held by a Related Person (as defined by the *Internal Revenue Code*) to the Beginning Farmer(s). (Note: This paragraph may be modified if a variable rate is used.)
  - c. The Seller(s) acknowledges that this contract will be assigned by the Iowa Agricultural Development Authority by separate instrument, the Guarantee, Assignment and Assumption Agreement (the "Guarantee") to the Beginning Farmer(s) who will assume the rights, duties, obligations and liabilities of the Iowa Agricultural Development Authority hereunder and guarantee the payment of principal and interest on the Bond. Seller(s) approves such assignment and assumption and acknowledges that the principal of, redemption premium, if any, and interest on the Bond, the installment payments under this contract and other amounts due and owing to the Seller(s) as holder of the Bond and seller under this contract are special limited obligations of the Iowa Agricultural Development Authority and payable solely and only from the obligations of the Beginning Farmer(s) under the Guarantee and are not general obligations of the State of Iowa or any political subdivision or agency thereof, including the Iowa Agricultural Development Authority, within the meaning of any constitutional or statutory limitation and do not constitute or give rise to a pecuniary liability of the State of Iowa or any political subdivision or agency thereof, including the Iowa Agricultural Development Authority, or a charge against their general credit or general funds.

3. **Payments Under the Sales Contract** -- The Beginning Farmer's payment obligations and rights and obligations to prepay principal and interest under the sales contract shall be determined by the Beginning Farmer and Bond Purchaser and included in the sales contract.
4. **Closing Documents** -- The Authority will have no responsibility with respect to the preparation, execution, or filing of any declaration of value statements, groundwater hazard statements, or any other forms or documents as may be required to finalize the transaction.

## SECTION IX - LOAN CLOSING PROCEDURES

After the Application is received, the following steps are needed to complete the loan closing process:

1. **Preparation of Legal Notice** -- The Authority is required by federal law to publish a legal notice listing each project for which a bond will be issued. The Authority will publish a legal notice unless informed by either the bond purchaser or loan applicant that a publication for the project should not take place.
2. **Receive Loan Data Sheets and Paperwork Regarding Each Loan** -- The Loan/Contract Data Sheet and attachments, as well as appraisals, valuations, amortization schedules, and other documents are needed to complete the loan process. Beginning Farmers and Bond Purchasers need to allow a minimum of two weeks from the time this information is received in the Authority's office to finalize the loan and issue the bond.
3. **Preparation of Bond Documents** -- A set of bond documents must be prepared for each loan. These documents will need signatures by the Bond Purchaser and Beginning Farmer at the loan closing.
5. **Prepare for Loan Closing** -- When final loan documents are returned from the bond attorney's office, the Bond Purchaser or other appropriate individuals are contacted regarding the loan closing date.
5. **Prepare Final Closing Documents** -- The bond documents and closing papers are dated and finalized. If a contract sale is being done, preparation of a Quit Claim Deed and finalizing of the Sales Contract are also needed. The documents are then sent promptly so the documents are received prior to the closing date.
6. **Verify Returned Closing Documents are Complete** -- After loan closing, certain documents need to be returned to the Authority's office. Each packet of materials is reviewed when returned to verify all signatures were obtained where needed.

## SECTION X - TAX EXEMPTION OF AUTHORITY BONDS

1. **General Federal Tax Exemption of Bonds** -- Under federal tax law an Authority bond is classified as a Qualified Small Issue Bond. Therefore, if all the provisions of the state and federal law continue to be complied with by the Beginning Farmer and Bond Purchaser, the interest on an Authority bond will not be included in the Bond Purchaser's gross income for federal income tax purposes.
2. **General State Tax Exemption of Bonds** -- Interest on an Authority bond will be exempt from Iowa income taxes but not from the Iowa franchise tax imposed on financial institutions. This means contract sales qualify for the state tax exemption, but banks are not eligible.
3. **Federal Alternative Minimum Tax** -- Notwithstanding the two preceding paragraphs, interest on Authority bonds, which is otherwise tax-exempt, shall be directly includable in the calculation of a bondholder's "alternative minimum taxable income" under Section 57(a)(5) of the *Internal Revenue Code* of 1986.
4. **Deduction for Interest Incurred to Carry Tax-Exempt Bonds** -- The Authority bonds are **not** "qualified tax-exempt obligations" within the meaning of Section 265(c)(3) of the *Internal Revenue Code* of 1986. Accordingly, financial institutions will not be allowed any deduction for that portion of the financial institution's interest expense which is allocable by law to the purchasing or carrying of the Authority's bond.

**NOTE:** The effects of the taxes and deductions discussed above will vary from Bond Purchaser(s) to Bond Purchaser(s) and, as to a given Bond Purchaser, from year to year. Bond Purchaser(s) should consult their regular tax consultants as to the specific effects of these provisions in the Bond Purchaser's(s') tax consequences.

## **SECTION XI - MAKING CHANGES AFTER THE BOND IS ISSUED**

(Submit form "Request To Adjust Loan Terms or Conditions" along with \$100 fee.) The consent of all parties is needed.

### **1. Modifying Interest Rates and Terms**

Interest rates and terms on previously closed loans can be changed or modified. The Authority Board must approve these changes at a monthly board meeting and issue a resolution reflecting the board action. The following information is needed by the Authority before modifications can be made:

- a. Completed Request Form (Page 7 of the application) which includes, but is not limited to, the following information:
  1. Project number and borrower(s) name(s).
  2. Principal balance remaining on the loan.
  3. Identify **in detail** all the changes to be made to the interest rate, variable rate index, adjustment terms, adjustment dates, payment dates, payment frequency, payment amount and whether or not it will change with a new interest rate.
  4. Effective date of changes.
  5. The rate index the bank will be using at the time the change will be made.
  6. The original maturity date of the loan cannot be extended unless a full refunding of the bond takes place. In the case of full refunding, a new bond is written, the old bond is paid off with the proceeds of the new bond, and new terms including maturity date become effective. If the last payment on the Bond is extended, the project will need to be published in ***The Des Moines Register*** and subject to bond approval and may take longer to process due to publication schedules.
- b. Letter from bank/contract seller/attorney providing further explanation and information.
- c. \$100 processing fee for each request presented to the Authority board of directors.

### **2. Transferring the owner of the Bond from one bank to another bank or from one contract seller to another contract seller or from a contract seller to a bank.**

(Submit form "Request To Adjust Loan Terms or Conditions" along with \$100 fee)

- a. If the Bond is to be transferred to a new bond holder, then written confirmation is needed from the future bond holder as well as other involved parties.
- b. In each of these instances, the original Bond needs to be returned to the Authority so the ownership can be transferred to the new bond holder.
- c. If the Bond is being transferred from a contract seller to a bank and the lender is paying off the contract, the Authority's bond counsel will issue a new Bond and related documents. If the lender is taking over the contract, a simple transfer of Bond ownership will occur by changing the registered owner on the Bond.

### **3. Assumption of Loans/Sales Contracts - Substitution of Collateral & Transfer of Property**

(Submit form "Request To Adjust Loan Terms or Conditions" along with \$100 fee)

Loans or sales contracts may only be assumed with the prior approval of the Authority, and only if the new purchaser of the property will qualify as a Beginning Farmer.

- a. Equipment and other depreciable property may be exchanged or traded on similar property.
- b. An appraisal is needed on collateral presently used as well as collateral that is to be used to assure an even-value swap is made and no capital gains taxes are avoided. Loan balance is also needed to assure that there is enough collateral for the loan balance.
- c. Other property such as breeding livestock may be added or substituted as collateral at the discretion of the Bond Purchaser without the prior approval of the Authority.
- d. The benefits of the Authority bond must remain with a qualified Beginning Farmer, and no person to whom property is traded or otherwise transferred may obtain the benefits of the bond.

#### 4. Disposition of Bonds That Have Been Paid Off

When a bond matures and the loan is paid off, the following information is needed:

- a. The original bond issued by the Authority to fund the loan (on green check paper) needs to be returned to the Authority marked "paid" and the date it was paid off. A copy of the bond marked "paid" should be given to the Beginning Farmer.
- b. If it is a bank loan, the original of the Promissory Note marked "paid" and date paid should be given to the Beginning Farmer.
- c. Bond Purchasers should make copies of these documents for file if they wish to retain them for a record.
- d. Other than the bond, the Authority does not want the bond documents returned that were issued for the loan. The Bond Purchaser should retain these for record purposes.

## SECTION XII - RIGHT TO AUDIT

The Authority shall have, at any time, the right to audit or monitor records of the Bond Purchaser and the Beginning Farmer relating to a loan and bond to insure the bond proceeds were used for qualified purposes by a qualified user.

## SECTION XIII - DEFINITIONS

The definitions used in the Program are important to Bond Purchasers and Beginning Farmers contemplating using the Program.

**"Agricultural Improvements"** -- Any improvements, buildings, structures or fixtures suitable for use in farming which are located on Agricultural Land. Agricultural Improvements as defined in Chapter 175 of the *Code of Iowa* include a single family dwelling located on Agricultural Land which is or will be occupied by the Beginning Farmer and structures attached to or incidental to the use of the dwelling.

**NOTE:** The ability to finance a personal residence with the Program is severely limited due to federal regulations governing the use of the Authority's bonds; therefore, except in certain circumstances (e.g., when the value of the residence is clearly less than 5 percent of the bond amount or the amount of contract financed), it will be necessary to finance the personal residence separately.

**"Agricultural Land"** -- Land suitable for use in farming and which is or will be operated as a farm located in the state of Iowa.

**"Application"** -- A completed instrument on a form approved by the Authority. Each Application must include the following: Beginning Farmer's name, address, financial data, description of anticipated use of loan proceeds, amount of loan or contract sale to be financed, down payment amount (if any), statement of Beginning Farmer's net worth determined in accordance with Authority rules, a summary of proposed loan or contract terms and certain certifications of the Beginning Farmer and Bond Purchaser. Each Application must be accompanied by the Beginning Farmer's financial statement (taken within 30 days of Application submission).

**"Beginning Farmer"** -- An individual with a "Low or Moderate Net Worth" that engages in farming or wishes to engage in farming.

**"Bond Purchaser"** -- Any individual, lender, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity that obtains an Authority bond under the Program in connection with a contract sale or loan to a Beginning Farmer.

**"Depreciable Agricultural Property"** -- Personal property suitable for use in farming for which an income tax deduction for depreciation is allowable in computing federal income tax under the *Internal Revenue Code of 1986*.

**"Farm"** -- A farming enterprise which is recognized in the community as a farm rather than a rural residence.

**“Farming”** -- Cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horticultural crops, grazing, the production of livestock, aquaculture, hydroponics, the production of forest products, or other activities designated by the Authority’s rules.

**\*\*First-Time Farmer**” – An individual who has never had any direct or indirect ownership interest in “Substantial Farmland” in the operation of which he or she has materially participated. An ownership interest or material participation by an individual’s co-applicant or minor child will also be attributed to the person.

However, the federal tax law also provides that an individual’s prior ownership interest in farmland will be disregarded if:

- a. Such farmland was disposed of while the individual was insolvent; and,
- b. Section 108 of the *Internal Revenue Code* applied to their indebtedness with respect to such farmland that the individual was not required to recognize any income for federal tax purposes from the cancellation of the indebtedness on the farmland.

**\*\*Indirect Land Ownership**” – An individual will not qualify as a First-Time Farmer if he or she holds minimal interest in a family farm corporation, a limited partnership, a trust, or any other type of entity which in turn owns substantial farmland, *and the individual materially participates* in the operation of such farmland.

**“Low or Moderate Net Worth”** -- An aggregate net worth of the individual and the individual’s co-applicant and minor children of \$678,731 or less.

**“Net Worth”** -- Total assets minus total liabilities as determined in accordance with generally accepted accounting principles with appropriate exceptions and exemptions reasonably related to an equitable determination of the Beginning Farmer’s net worth. Assets shall be valued at fair market value.

**\*\*Related Person**” -- According to the IRS, this term refers to grandfather, grandmother, father, mother, brother or sister (whether whole or half blood), child, grandchild, or co-applicant. It also includes certain corporations and partnerships (page 6).

**\*\*Substantial Farmland**” -- Any parcel of land unless:

- a. The parcel is smaller than 30 percent of the median size of a farm in the county where the parcel is located (see chart on back page).

***(Note: If applicants previously purchased land jointly with another party, they need to report the number of gross acres of the entire tract and not their proportion of acres purchased. To be eligible, the total amount of acres of the combined purchase must fall below 30 percent of the median size farm in the respective county.)***

**“Total Assets”** -- As defined by Authority Rule: “Total assets shall include, but not be limited to, the following: cash crops or feed on hand; livestock held for sale; breeding stock, marketable bonds and securities; securities (not readily marketable): accounts receivable; notes receivable; cash invested in growing crops; net cash value of life insurance; machinery and equipment; cars and trucks; farm and other real estate including life estates and personal residence; value of a beneficial interest in a trust; government payments or grants; and other assets.”

Authority Rules state the following:

Total assets shall not include items used for personal, family or household purposes by the applicant, but in no event shall such property be excluded to the extent a deduction for depreciation is allowable for federal income tax purposes. All assets shall be valued at fair market value by the participating lender. Such value shall be what a willing buyer would pay a willing seller in the locality. A deduction of ten percent may be made from fair market value of farm and other real estate.

#### Authority Policy for Recording the Value of Future Interest Assets

The estimated current value of an asset should be included in personal financial statements only if it has all of the following characteristics:

1. The right to the asset is for a fixed or determinable amount.
2. The right to the asset is not contingent on the holder's life expectancy or the occurrence of a particular event, such as disability or death.
3. The right does not require future performance of service by the holder.

Examples of future-interest assets that frequently have all of the above characteristics include: guaranteed minimum portions of pensions, vested interests in pension or profit sharing plans, deferred compensation contracts, beneficial interests in trusts, remainder interest in property subject to life estates, annuities, and fixed amounts of alimony for a definite period.

However, a future-interest that is receivable upon attaining a certain age or upon being alive at the time of someone else's death are contingent events and should not be included as an asset in the financial statement.

The asset can be documented using either of the following processes:

1. Record the asset at gross value and record the offsetting penalties and taxes that would be incurred if the asset were converted to cash before the attainable age, **OR**
2. Record the asset at its net value after offsetting penalties and taxes have been deducted. The financial statement needs to reflect "net value" to avoid confusion.

**"Total Liabilities"** -- As defined by Authority Rule: "Total liabilities shall include, but not be limited to the following: accounts payable, notes or other indebtedness owed to any source, taxes, rent, amount owed on a real estate contract or real estate mortgages, judgments, accrued interest payable, and any other liabilities."

Authority Rule states the following:

Liabilities shall be determined on the basis of generally accepted accounting principles.

**\*= This is a Federal tax law definition.**

**CONCLUDING NOTE:** The Authority recognizes some of the provisions in this Program Summary may be confusing to the Beginning Farmer or Bond Purchaser. The Authority will provide whatever assistance it can in answering questions or completing documents. Beginning Farmers and Bond Purchasers are encouraged to visit with the Authority staff early in the application process to make the entire transaction as simple as possible. The Authority's telephone number is (800) 432-7230.



**EFFECTIVE FEBRUARY 4, 2009**  
**MEDIAN FARM SIZE LIMITS FOR BEGINNING FARMER LOAN PROGRAM**  
**Source: 2007 Census of Agriculture**

<b>COUNTY</b>	<b>Median Size Farm</b>	<b>30% of Median</b>	<b>COUNTY</b>	<b>Median Size Farm</b>	<b>30% of Median</b>
Adair	179	53.7	Jefferson	120	36.0
Adams	208	62.4	Johnson	100	30.0
Allamakee	144	43.2	Jones	157	47.1
Appanoose	142	42.6	Keokuk	134	40.2
Audubon	160	48.0	Kossuth	240	72.0
Benton	152	45.6	Lee	115	34.5
Black Hawk	148	44.4	Linn	90	27.0
Boone	107	32.1	Louisa	120	36.0
Bremer	111	33.3	Lucas	120	36.0
Buchanan	127	38.1	Lyon	168	50.4
Buena Vista	250	75.0	Madison	90	27.0
Butler	116	34.8	Mahaska	130	39.0
Calhoun	188	56.4	Marion	91	27.3
Carroll	200	60.0	Marshall	150	45.0
Cass	200	60.0	Mills	185	55.5
Cedar	160	48.0	Mitchell	150	45.0
Cerro Gordo	175	52.5	Monona	250	75.0
Cherokee	240	72.0	Monroe	150	45.0
Chickasaw	124	37.2	Montgomery	200	60.0
Clarke	159	47.7	Muscatine	120	36.0
Clay	200	60.0	O'Brien	240	72.0
Clayton	146	43.8	Osceola	240	72.0
Clinton	145	43.5	Page	157	47.1
Crawford	199	59.7	Palo Alto	160	48.0
Dallas	82	24.6	Plymouth	200	60.0
Davis	126	37.8	Pocahontas	329	98.7
Decatur	160	48.0	Polk	63	18.9
Delaware	150	45.0	Pottawattamie	160	48.0
Des Moines	94	28.2	Poweshiek	155	46.5
Dickinson	166	49.8	Ringgold	165	49.5
Dubuque	126	37.8	Sac	240	72.0
Emmet	219	65.7	Scott	150	45.0
Fayette	160	48.0	Shelby	253	75.9
Floyd	120	36.0	Sioux	160	48.0
Franklin	172	51.6	Story	100	30.0
Fremont	190	57.0	Tama	160	48.0
Greene	160	48.0	Taylor	160	48.0
Grundy	160	48.0	Union	120	36.0
Guthrie	135	40.5	Van Buren	132	39.6
Hamilton	140	42.0	Wapello	80	24.0
Hancock	160	48.0	Warren	79	23.7
Hardin	160	48.0	Washington	135	40.5
Harrison	181	54.3	Wayne	160	48.0
Henry	115	34.5	Webster	170	51.0
Howard	150	45.0	Winnebago	160	48.0
Humboldt	248	74.4	Winneshiek	120	36.0
Ida	177	53.1	Woodbury	157	47.1
Iowa	152	45.6	Worth	118	35.4
Jackson	128	38.4	Wright	190	57.0
Jasper	140	42.0	<b>State Averages</b>	<b>157</b>	<b>47.1</b>

## Comparison of IADD Loan Programs

	<b>Beginning Farmer Loan Program – BFLP</b>	<b>Loan Participation Program - LPP</b>
<b>Age</b>	At least 18 years old No upper age limit	At least 18 years old No upper age limit
<b>Eligible projects</b>	Breeding livestock, machinery, land, farm improvements	Breeding livestock, machinery, land, farm improvements
<b>Lender's Certification</b>	None	Certify that no other private or state credit can be obtained; FSA does not need to certify denial
<b>Land ownership</b>	Cannot own substantial farmland (30% of county median acres)	No restrictions
<b>Buy from close relatives</b>	Yes	Yes
<b>Minimum loan</b>	None	None
<b>Maximum loan</b>	\$500,000	30% purchase price or \$150,000 participation loan
<b>Maximum net worth</b>	\$678,731	\$678,731
<b>Maximum debt before closing</b>	N/A	\$400,000
<b>Application fee</b>	\$50	\$100
<b>Closing fee</b>	1.50% of IADD <b>Bond</b> to \$250,000 0.75% of the <b>Bond</b> over \$250,000 \$300 minimum	1.25% of IADD <b>participation loan</b> \$300 minimum
<b>Current ratio</b>	N/A	Greater than 1.1
<b>Debt to asset ratio</b>	N/A	Cannot exceed 80% without guaranteed source of repayment
<b>Loan to net worth ratio</b>	N/A	Cannot exceed 300% without guaranteed source of repayment
<b>Off-farm income</b>	No restrictions	Cannot exceed 50% of projected total of gross income
<b>Corporation, Partnerships, LLC's eligibility</b>	No	Yes

A beginning farmer can participate in both of these programs at the same time  
as long as the applicant and project meet both programs' guidelines.